

## Message Text

SECRET

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45

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 W

----- 122667

O 281720Z AUG 75

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC IMMEDIATE 6313

INFO AMEMBASSY LONDON IMMEDIATE

AMEMBASSY OTTAWA IMMEDIATE

AMEMBASSY PARIS IMMEDIATE

AMEMBASSY SEOUL IMMEDIATE

USERDA GERMANTOWN IMMEDIATE

S E C R E T SECTION 1 OF 2 IAEA VIENNA 7384

EXDIS

E.O. 11652: GDS

TAGS: IAEA TECH ENRG KS FR PARM

SUBJECT: ROK/IAEA/France TRILATERAL SAFEGUARDS AGREEMENT

REF: (A) STATE 203397; (B) SEOUL 6608

1. MISSION SEES NOTHING TO BE GAINED AND MUCH TO BE LOST FROM ANY EFFORT TO DEFER BG CONSIDERATION ROK/IAEA/France TRILATERAL SAFEGUARDS AGREEMENT.

2. IMPORTANT FACTOR NOT RPT NOT REFLECTED REFTTEL, IS FACT THAT ROK HAS COMPLETED ITS NEGOTIATIONS WITH AGENCY ON ITS NPT SAFEGUARDS AGREEMENT, WHICH IS ALSO SCHEDULED FOR CONSIDERATION AT SEPTEMBER BG (SEE IAEA VIENNA 7192).

3. IF ROK/IAEA/France TRILATERAL, WHICH PARTIES HAD ORIGINALLY PLANNED BE CONSIDERED AT JUNE BG (BUT WAS DELAYED SINCE FRANCE HAD NOT RPT NOT RECEIVED GREEN LIGHT ON AGREEMENT FROM EC), IS DEFERRED FROM CONSIDERATION AT SEPTEMBER BG, ROK WILL BE IN MUCH STRONGER POSITION TO ARGUE THAT TRILATERAL IS NO RPT NO LONGER NEEDED, SINCE THEIR ENTIRE PEACEFUL NUCLEAR PROGRAM WOULD BECOME SUBJECT TO IAEA SAFEGUARDS UNDER THEIR SECRET

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NPT SAFEGUARDS AGREEMENT. MOREOVER, IT SEEMS TO US

THAT FRENCH WOULD THEN HAVE TWO OPTIONS, NEITHER OF WHICH WOULD IN ANY WAY AFFECT FRENCH ABILITY TO PROCEED WITH NUCLEAR EXPORTS TO ROK: (A) ABANDON TRILATERAL ALTOGETHER AND RELY SOLELY ON NPT SAFEGUARDS AGREEMENT, OR (B) ATTEMPT TO JUSTIFY NECESSITY OF TRILATERAL NOTWITHSTANDING NPT SAFEGUARDS AGREEMENT. IN LATTER CASE, BELIEVE FRENCH WOULD BE PUT IN POSITION OF HAVING TO ARGUE, IF EFFECT, THAT NPT SAFEGUARDS AGREEMENT IS INADEQUATE. WE FEAR THIS COULD LEAD TO MOST UNFORTUNATE BG DEBATE, AND, INTER ALIA, USG WOULD FIND ITSELF IN EXTREMELY AWKWARD POSITION. (IF FACT, THERE MIGHT WELL BE SOME QUESTIONS RAISED AT SEPTEMBER BG AS TO WHY BOTH AGREEMENTS ARE NEEDED, BUT WE ASSUME FRENCH WILL ARGUE THAT NEGOTIATIONS ON TRILATERAL WERE COMPLETED SOME TIME AGO AND THAT TRILATERAL, WHICH ENTERS INTO FORCE UPON SIGNATURE, IS EXPECTED TO BECOME EFFECTIVE BEFORE NPT SAFEGUARDS AGREEMENT, WHICH ENTERS INTO FORCE UPON NOTIFICATION TO IAEA THAT ROK STATUTORY AND CONSTITUTIONAL REQUIREMENTS HAVE BEEN MET, PRESUMABLY AT SOME LATER TIME).

4. ACCORDINGLY, WE FEAR THAT ONE CONSEQUENCE OF DEFERRAL WOULD BE THAT TRILATERAL (WHICH WE REGARD AS THE BEST TRILATERAL SAFEGUARDS AGREEMENT SO FAR DEVELOPED AND ONE WHICH WILL HAVE PARTICULAR SIGNIFICANCE AS PRECEDENT FOR SIMILAR AGREEMENTS INVOLVING NON-NUCLEAR WEAPON STATES NOT RPT NOT PARTY TO NPT) WOULD NEVER BE APPROVED, WHILE FRENCH SUPPLY POSITION WOULD BE TOTALLY UNAFFECTED.

5. ADDITIONALLY, AS MATTER OF PRINCIPLE, MISSION BELIEVES WE WOULD BE EMBARKING ON EXTREMELY RISKY COURSE BY ADOPTING TACTIC OF ATTEMPTING OR THREATENING TO DEFER OR BLOCK BG APPROVAL OF SAFEGUARDS AGREEMENTS AS A LEVER TO CONTROL ACTIONS OF OTHER NUCLEAR SUPPLIERS, BEARING IN MIND THAT OTHERS COULD ALSO ADOPT THIS SAME TACTIC WITH RESPECT TO U.S. SUPPLIES. FOR FURTHERMORE, MISSION BELIEVES FRG IS ALMOST CERTAINLY GOING TO CONSIDER THIS TRILATERAL AS "MODEL" FOR ITS TRILATERAL WITH BRAZIL. IF U.S. TAKES STEPS TO DEFER OR

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OPPOSE ROK/IAEA/France TRILATERAL, FRG WILL HAVE TO ASSUME THAT IT MAY SUFFER SIMILAR TREATMENT WHEN IT BRINGS FRG/IAEA/BRAZIL TRILATERAL BEFORE BG. THIS, IN TURN, WOULD RAISE FUNDAMENTAL QUESTION AS TO HOW FAR AN NPT SUPPLIER PARTY'S OBLIGATIONS GO IF IT MAKES BONA FIDE EFFORT TO SECURE BG APPROVAL OF CLEARLY ADEQUATE AGREEMENT PROVIDING FOR IAEA SAFEGUARDS IN PARTICULAR RECIPIENT STATE, BUT SUCH BG APPROVAL IS

BLOCKED. IS SUCH NPT PARTY THEN FREE TO SUPPLY NUCLEAR MATERIALS, ETC., TO RECIPIENT IN QUESTION WITHOUT IAEA SAFEGUARDS? (IT SHOULD BE KEPT IN MIND THAT U.S. COULD WIND UP IN THIS POSITION ITSELF WITH RESPECT TO ROC IF U.S./IAEA/ROC TRILATERAL SAFEGUARDS AGREEMENT IS TERMINATED FOR SOME REASON, E.G., BG ACTION.) MISSION RECOGNIZES THAT WE MAY HAVE TO FACE UP TO THIS QUESTION AT SOME TIME, BUT WE BELIEVE IT WOULD BE SERIOUS MISTAKE TO TAKE ANY STEPS AT THIS JUNCTURE WHICH COULD FORCE ISSUE UPON US PREMATURELY, AND RISK CAUSING SERIOUS DAMAGE TO NPT FRAMEWORK AND U.S. NON-PROLIFERATION EFFORTS. WE FEAR THAT ATTEMPTS TO DEFER OR BLOCK ROK/IAEA/France TRILATERAL COULD LEAD TO THIS RESULT. ACCORDINGLY, WE WOULD HOPE THAT, AS MATTER OF GENERAL PRINCIPLE, DEPT. WILL SERIOUSLY CONSIDER POSSIBLE CONSEQUENCES OF INJECTING PARTICULAR SUPPLY CONSIDERATIONS INTO BG CONSIDERATION OF IAEA SAFEGUARDS AGREEMENTS.

6. AS FOR LANGUAGE DIFFICULTY MENTIONED IN PARA 4 REF A, WE SEE NO RPT NO PROCEDURAL PROBLEM IN HAVING SECRETARIAT ISSUE CORRIGENDUM DOCUMENT WITH AMENDED LANGUAGE PRIOR TO

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S E C R E T SECTION 2 OF 2 IAEA VIENNA 7384

EXDIS

BG MEETING, IF PARTIES INVOLVED AGREE ON DESIRABILITY OF TAKING SUCH ACTION. IT CLEARLY WOULD BE PREFERABLE, IN SUCH EVENT, FOR INITIATIVE TO COME FROM ONE OR MORE OF PARTIES CONCERNED.

7. AS WE UNDERSTAND BACKGROUND OF PHRASE "ON THE BASIS OF OR BY THE USE OF," SECRETARIAT AND FRENCH WANTED TO PRECLUDE SITUATION, FOR EXAMPLE, WHEREBY ROK COULD SUBSEQUENTLY DISCLAIM THAT THEY AHD "USED" FRENCH-SUPPLIED TECHNOLOGY BUT HAD OBTAINED SIMILAR TECHNOLOGY ELSEWHERE IN CONSTRUCTING SEPARATE PLANT WITHOUT FRENCH ASSISTANCE. PHRASE IN QUESTION WAS INTENDED TO ENABLE FRENCH TO PRESUME IN SUCH EVENT THAT SUCH TECHNOLOGY ACTUALLY CAME FROM FRENCH-SUPPLIED INFORMATION, SO THAT FRANCE COULD THEN TAKE ACTION (EITHER WITH OR WITHOUT CONSENT OF ROK) TO HAVE SUCH PLANT PUT ON TRILATERAL INVENTORY PURSUANT TO SECTION 6(C). SINCE REFERENCE ONLY TO "THE USE OF SPECIFIED INFORMATION" MIGHT BE READ TO MEAN THAT A STRICT TEST WAS TO BE APPLIED BY THE SUPPLIER IN THIS REGARD, IT WAS CONSIDERED PREFERABLE TO INCLUDE BOTH "ON THE BASIS OF" AND "BY THE USE OF" WITH THE WORD "OR" IN BETWEEN, IN ORDER TO PROVIDE WIDEST INTERPRETATION POSSIBLE.

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IN RETROSPECT, PERHAPS USE OF TERM "DERIVED FROM" INSTEAD OF "ON THE BASIS OF" WOULD HAVE REFLECTED THIS CONCEPT MORE CLEARLY. IN ANY CASE, IT SHOULD BE UNDERSTOOD THAT SAFEGUARDS ON ANY SUBSEQUENT FACILITIES ROK DESIGNED, CONSTRUCTED OR OPERATED ARE TRIGGERED ONLY BY NOTIFICATION BY EITHER FRANCE OR ROK UNDER SECTION 6(C) AND ARE NOT RPT NOT AUTOMATICALLY TRIGGERED.

8. WE ARE NOT RPT NOT SURE WE FULLY UNDERSTAND DEPT'S CONCERN WITH EXISTING LANGUAGE NOR DO WE SEE THAT VERSION SUGGESTED BY DEPT. PARA 4 REF A IS AN IMPROVEMENT. IN VIEW FOREGOING, EXPLANATION, HOWEVER, WE WONDER WHETHER SUBSTITUTION OF "DERIVED FROM" FOR "ON THE BASIS OF" IN PERTINENT SECTIONS OF AGREEMENT MIGHT PROVIDE A BETTER SOLUTION. WE WOULD WELCOME DEPT'S VIEWS ON THIS SUGGESTION.

9. MISSION HAS READ WITH CONSIDERABLE INTEREST REF B, WHICH DESCRIBES IN DETAIL WHAT APPARENTLY IS INVOLVED IN FRANCE-ROK DEAL. IF, IN FACT REPROCESSING FACILITY IS AS DESCRIBED PARA 4 REF B WE WONDER WHETHER U.S.G. ACTIONS SO FAR HAVE BEEN ANALOGOUS TO USING A SLEDGEHAMMER TO SQUASH A GNAT, WHICH, INTER ALIA, COULD

GIVE RISE TO SOME VERY SERIOUS QUESTIONS RE U.S. INTENTIONS  
IN CONNECTION WITH IMPLEMENTATION OF ARTICLE IV OF  
NPT. LABOWITZ

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## Message Attributes

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**Copy:** SINGLE  
**Draft Date:** 28 AUG 1975  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** WorrelSW  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**TAGS:** TECH, ENRG, PARM, KS, FR, US, IAEA  
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